

REMARKS

In an Office Action dated October 5, 2005, the Examiner rejected claims 1-8 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Document 2003/0187926 A1 (Karjanlahti). Applicants respectfully submit that it is their belief that this document is not prior art.

The inventor is apparently a resident of Finland and filed a PCT application on December 13, 2001 (a Thursday). The application was filed in the United States on December 17, 2002 (a Tuesday). Thus, the U.S. application was filed more than one year after the PCT (Finnish) application and is not entitled to the priority date of the Finnish application.

35 U.S.C. 365 deals with the right of priority. 35 U.S.C. 365(a) states:

In accordance with the conditions and requirements of subsections (a) through (d) of Section 119 of this title, a national application shall be entitled to the right of priority based on a prior filed international application which designated at least one country other than the United States.

Further, 35 U.S.C. 365(b) states:

In accordance with the conditions and requirements of Section 119(a) of this title and the treaty and the regulations, an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States.

35 U.S.C. 119(a) states:

An application for patent for an invention filed in this country by any person who has or whose legal representatives or assigns have previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, or in a WTO member country, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within 12 months from the earliest date on which such foreign application was filed... [Emphasis added]

In this case, the U.S. application was filed more than one year after the Finnish application (since both the Finnish and the U.S. applications were filed in the middle of the week neither application is entitled to a carry over of a date as might be the case if the

U.S. application was filed on a Monday and the anniversary date had been a Saturday or Sunday). Accordingly, Applicants respectfully submit that the priority date of the Karjanlahti application is no earlier than December 17, 2002 which is the U.S. filing date. Applicants filed their application on February 25, 2002, almost 10 months earlier.

Accordingly, Applicants respectfully submit that the Karjanlahti application is not prior art for Applicants' application so that the Examiner's rejection over Karjanlahti under 35 U.S.C. 102(e) has been overcome. In view of the above, Applicants respectfully submit that there is no point at this time in trying to refute the arguments that the Examiner presented demonstrating that Applicants' invention was anticipated by Karjanlahti because Applicants argue herein that Karjanlahti is not in fact prior art.

Concerning the Declaration of Prior Invention and the Supplementary Declaration of Prior Invention, in view of the above argument Applicants consider these documents as moot and see no need for initiating interference proceedings at this time.

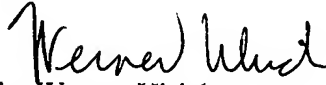
Accordingly, Applicants respectfully submit that the subject matter of their invention is patentable since no legitimate prior art was cited against the application. Applicants therefore respectfully request that the Examiner reconsider the grounds for rejection of the application, allow the application including claims 1-8, and pass the application to issue.

If the Examiner finds reasons for rejecting Applicants' argument that Karjanlahti is not prior art, Applicants' attorney respectfully requests that the Examiner not give a final rejection but allow Applicants to make arguments on distinctions over Karjanlahti including amending the claims to highlight these distinctions.

If the Examiner feels that a voice or fax communication would help to advance the prosecution of this application, the Examiner is invited to call or fax Applicants' attorney at 630 469-3575.

Respectfully submitted

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